IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 602 OF 2006
IN
NOTICE OF MOTION NO. 1512 OF 2006
IN
SUIT NO. 1298 OF 2006

1. Saleh Abdul Aziz Alhami & Anr.] .. Appellants (Ori. Plaintiff)

Versus

1. Swan Mills Ltd. & Anr.] .. Respondents

Dr. Virendra V. Tulzapurkar, senior counsel with Mr. Birendra Saraf and Mr. Hitesh Jain i/b M/s. ALMT Legal for appellants.

Mr. S.H. Doctor, senior counsel i/b M/s. Federal & Rashmikant for respondent No.1.

Mr. V.R. Dhond i/b M/s. Federal & Rashmikant for respondent No.2.

CORAM: R.M. LODHA &
S.A. BOBDE, JJ.

DATED: 19TH AUGUST, 2006

P.C. :

. The Appeal arises from the order refusing to grant ad-interim relief. As it is, we are informed that subject property is under attachment by the Income Tax Department. In this view of the matter, we are satisfied that the merits of the diverse contentions raised in the Appeal need not be examined by us and the interest of justice would be subserved if the learned

Motion Judge hears and decides the Motion finally at an early date.

2. We, accordingly, dispose of the Appeal by the following order:

(i) The defendants shall file their Affidavit in opposition to the Notice of Motion within four weeks from today. The plaintiff shall be at liberty thereafter to apply to the learned Motion Judge for fixing the date of hearing of the Motion.

(ii) In that event, we request the learned Motion Judge to hear and decide the Notice of Motion expeditiously.

(iii) In case the attachment levied by the Income Tax Department is raised before the hearing and final disposal of the Notice of Motion, we direct the defendants to intimate this aspect to the plaintiffs to enable them to apply to the learned Motion Judge for

hearing of the Notice of Motion.

(iv) All contentions of the parties are kept open to be agitated at the hearing of the Notice of Motion. Needless to say, any observation made in the impugned order shall not influence the decision of the Notice of Motion finally.

Sd/-
[R.M. LODHA, J.]

Sd/-
[S.A. BOBDE, J.]